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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/741,136	12/15/2000	Brian Von Herzen	

CONFIRMATION NO. 6456

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LOUIS J. HOFFMAN, P.C.

 14614 NORTH KIERLAND BOULEVARD, SUITE 300
 SCOTTSDALE, AZ 85254

Date Mailed: 09/13/2004

Notice Regarding Benefit/Priority Claim(s)

Prior-Filed Nonprovisional Application has been Improperly Indicated as the National Stage (35 U.S.C. 371) of an International Application

If applicant wishes to claim the benefit of the prior-filed international application under 35 U.S.C. 365 (c), applicant must submit a specific reference that includes: (1) the international application number and international filing date; and (2) a clear indication the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications, such as "This application is a continuation of Application No. 10/---,---, filed ---, which is a continuation of PCT/US--/---, filed---." The specific reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed. See 37 CFR 1.78(a). If the filing receipt includes the benefit claim to the prior application, the petition and surcharge would not be required.

If applicant wishes to claim the benefit of the prior-filed international application under 35 U.S.C. 365 (a), applicant must: (1) submit a proper priority claim in the oath or declaration, or in the foreign priority information section of an application data sheet (37 CFR 1.76), in compliance with 37 CFR 1.63 and 37 CFR 1.55 within the time period set forth in 37 CFR 1.55(a); and (2) comply with the other requirements of 37 CFR 1.55.

For more information and examples on benefit claims, please see Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office 89 (March 18, 2003), which is available on the USPTO website at <http://www.uspto.gov/web/offices/com/sol/og/2003/week11/patbene.htm>, and the Manual of Patent Examining Procedure (MPEP) §§ 201.11 and 201.14.

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